

PROB. 12B  
(7/93)

ORIGINAL

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

**United States District Court**

for the

**DISTRICT OF HAWAII**

JUL 18 2006  
at 3 o'clock and 2 min M  
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**

*(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: STEVEN TAMASOA

Case Number: CR 02-00212HG-01

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor  
Chief U.S. District Judge

Date of Original Sentence: 4/14/2003

Original Offense: Felon in Possession of Ammunition, in violation of 18 U.S.C.  
§§ 922(g)(1) and 924(a)(2), a Class C felony

Original Sentence: Fifty-one (51) months imprisonment, to be followed by three (3)  
years of supervised release with the following special conditions:  
1) That the defendant participate in a substance abuse program,  
which may include drug testing at the discretion and direction of the  
Probation Office; 2) That the defendant is prohibited from  
possessing any illegal or dangerous weapons; and 3) That the  
defendant provide the Probation Office access to any requested  
financial information.

Type of Supervision: Supervised Release      Date Supervision Commenced: 2/17/2006

**PETITIONING THE COURT**

[X] To modify the conditions of supervision as follows:

*General Condition: That the defendant shall refrain from any unlawful use of a  
controlled substance. The defendant shall submit to one  
drug test within 15 days of the commencement of  
supervision and at least two drug tests thereafter but no  
more than eight valid drug tests per month during the term of  
supervision.*

*Special Condition No. 1: That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.*

### CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 1	The subject refused to comply with drug testing on 3/31/2006, 4/25/2006, and 6/16/2006.
2. Special Condition No. 1	The subject failed to attend substance abuse counseling on 5/11/2006.
3. General Condition and Standard Condition No. 7	The subject's urine specimen of 6/6/2006 tested positive for marijuana.

Our office was informed by Hina Mauka that on 3/31/2006, 4/25/2006, and 6/16/2006, the subject failed to submit a urine specimen for testing. As the subject was oriented to the requirements of the drug testing program, he is charged with refusal to comply with drug testing. With respect to the missed drug test on 3/31/2006, the subject stated that he knew about the test but lost track of time helping friends move to a new residence. The subject was admonished and warned to be more careful in the future. With respect to the missed drug test on 4/25/2006, the subject stated that he thought he called Hina Mauka and was not sure how he missed the test. The subject was admonished and instructed to listen to the recording closer in the future. With respect to the missed drug test on 6/16/2006, the subject stated that he was preparing for a camping trip with his family and forgot to report to Hina Mauka. The subject was again verbally reprimanded and warned that future noncompliance with respect to drug testing would not be tolerated. The subject promised to comply.

On 5/11/2006, the subject failed to attend substance abuse counseling at Hina Mauka. When questioned, the subject claimed to be running an errand that day and running out of time to get to his counseling session. The subject was reprimanded and told that he must plan ahead and to attend all future counseling sessions unless excused by our office.

On 6/6/2006, the subject submitted a urine specimen for testing at Hina Mauka. The specimen was tested with a non-instrumented drug testing (NIDT) device, and was presumptively positive for marijuana. Our office later received laboratory confirmation that the subject's urine specimen of 6/6/2006 was positive for marijuana. The subject admitted using marijuana on the weekend prior to the test. The subject reported that he suffers from a medical condition called Sleep Apnea. This condition causes the subject to stop breathing while sleeping. As a result, the subject wakes up frequently during

sleep. The subject reported that the medication prescribed to him was causing him to have severe headaches. As a last resort, he decided to try marijuana. The subject was admonished by the undersigned and told that he cannot self medicate with an illicit drug such as marijuana. He was warned that future marijuana use would be dealt with more severely. The subject promised to comply. Subsequent drug tests have been negative for marijuana.

As a result of his non-compliance and in light of U.S. vs. Stephens, we are requesting that the Court modify the mandatory drug testing condition (General Condition) to allow for additional drug testing outside of treatment. We are also requesting that Special Condition No. 1 be revised to include updated language. Our office believes that due to the subject's use of marijuana, it is prudent to randomly test the subject for illicit drug use until the expiration of supervision.

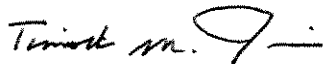
As noted by his signature on the attached Waiver of Hearing form (Probation Form 49), the subject maintains no objections to this recommendation. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modifications.

Respectfully submitted by,



FRANK M. CONDELLO, II  
U.S. Probation Officer

Approved by:



TIMOTHY M. JENKINS  
Supervising U.S. Probation Officer

Date: 7/10/2006


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(7/93)

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THE COURT ORDERS:

☒ The Modification of Conditions as Noted Above  
☐ Other

  
\_\_\_\_\_  
HELEN GILLMOR  
Chief U.S. District Judge  
  
7.16.06  
\_\_\_\_\_  
Date